IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE TENTH DAY OF FEBRUARY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE B.PRAKASH RAO

WRIT PETITION NO : 20189 of 1994

Between:

Kondapalli Seetha Rama Chandra Rao S/o.Laxminarayana
Manuguru Village and Mandal Khammam District

..... PETITIONER

AND

1 The Land Acquisition Officer/ Special Deputy Collector (LA)
I.P.T. & Railways, Khammam
2 The Executive Engineer I.B.Khammam

.....RESPONDENT(S)

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to direct the respondents to initiate appropriate proceedings under the Land Acquisition Act for the petitioner herein by issuing a writ, order or direction in the nature of writ of Mandamus and may be further directed to pay the compensation to the petitioner herein as per the market value for the petitioner's lands which were submerged under the "Nerella Cheruvu" in Survey Nos.171 to 175 to an extent of Ac.7-19 guntas situated at Manugur (V) & Mandal, Khammam District.

Counsel for the Petitioner:MR.Y.RAMA RAO

Counsel for the Respondents: G.P. for Land Acquisition.

The Court made the following :

ORDER:

Heard Sri Y.Rama Rao, the learned counsel appearing for the petitioner and the learned Government PIeader for Land Acquisition.

The petitioner herein, claiming to be the owner of the lands in Survey Nos.171 to 175 admeasuring Ac.7-19 guntas situated at Manugur village in Khammam District, filed this writ petition, *inter alia,* seeking for payment of compensation in respect of the above lands as per market value.

The case of the petitioner is that the lands in the above mentioned Survey numbers have already been submerged under the 'Nerella Cheruvu' and thereby depriving the petitioner's legitimate and proprietary rights for which the respondents are liable for payment of necessary compensation by taking recourse to the proceedings under Section 12 of the Land Acquisition Act (for short 'the Act'). However, in spite of the demands made, followed by the legal notice dated 29.03.1994, no action was taken and thereby the petitioner's basic rights were violated and therefore, the impugned action is totally violative of Article 300(A) of the Constitution of India. Hence, the writ petition.

No counter affidavit is filed in spite of granting several adjournments.

Having heard the learned counsel on both sides and on perusal of the material, the question which falls for consideration is as to whether the petitioner is entitled for payment of compensation in regard to the submergence of his lands ?

There is no serious dispute in regard to the ownership of the lands in respect of the aforesaid survey numbers and their submergence in Nerella Cheruvu. The fact that

the petitioner is deprived of his enjoyment over his lands due to submergence. The respondents cannot evade their obligation under the law to deny the legitimate rights and the claim of the petitioner. In fact, any such action on the part of the respondents clearly violates the rights of the petitioner. In the circumstances, it has to be held that the petitioner is entitled for the payment of the compensation for such submergence.

The writ petition is allowed directing the respondents to initiate proceedings under the provisions of the Act and take all such steps in this regard for making payment of the compensation on the basis of the market value along with other benefits to which he is entitled. The entire exercise shall be completed within three months from the date of receipt of a copy of this order.

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B. PRAKASH RAO, J

10th February 2005.

Chvn.

That Rule Nisi has been made absolute as above.

Witness the Hon'ble Sri Devinder Gupta, the Chief Justice on this the Thursday, the Tenth day of February Two thousand and five.

ASSISTANT REGISTRAR.

// TRUE COPY//

SECTION OFFICER.

To

1 The Land Acquisition Officer/ Special Deputy Collector (LA)
I.P.T. & Railways, Khammam
2 The Executive Engineer I.B.Khammam

3. Two C.Cs. to the G.P. for Revenue and Land Acquisition, High Court Buildings, Hyderabad. (OUT).

4. Two C.D. copies.